

## TITLE 14 BOARD OF FORESTRY

### NOTICE IS HEREBY GIVEN: CHECKLIST TIMBER HARVEST PLAN RULES

That the California State Board of Forestry (Board) consistent with the provisions of Sections 11346 et. seq., of the Government Code, will hold a public hearing to discuss the adoption of Section 1051.5, 14 Title California Code of Regulations (CCR). The regulatory proposal implements the Checklist Timber Harvest Plan (CTHP) for those timber harvesting operations that with incorporated mitigations are not likely to result in significant adverse effects on the environment.

The hearing is scheduled for October 4, 1994, at 1:00 p.m. at the Pines Resort and Conference Center, Road 434, Bass Lake, California (near Oakhurst). Any person interested may present statements orally and in writing that are relevant to the proposed rules at the hearing. The Board will accept written comments on the proposed amendments in its office at P.O. Box 944246, Sacramento, CA 94244-2460, or at 1416 Ninth Street, Room 1506-14 until 5:00 p.m. Monday, October 3, 1994.

### INFORMATIVE DIGEST:

#### Background:

These regulations provide forestland owners with an additional alternative to filing a regular Timber Harvest Plan (THP) when there is no reasonable expectation of significant environmental impact.

Timber landowners and foresters have testified that the current process often requires too much paperwork to deal with timber operations that have little environmental risk. This results in excessively high costs, an unnecessary informational burden, and extended preparation time for Timber Harvest Plans.

These proposed rules contain an alternative called The "Checklist THP". These rules are designed to lessen some of the informational requirements and costs to landowners resulting from THP preparation, filing, review, and impact analysis, while avoiding significant adverse impacts on the environment.

These proposed rules reduce the informational requirements and preparation for operations determined not to have a significant adverse impact. This determination is made by the Registered Professional Forester (RPF) after completion of an environmental checklist.

Rules Description:

Section 1051.5 establishes a new class of THP. It applies to timber harvest operations which are expected to result in no significant adverse impact on the environment. The specific requirements of a CTHP are:

(1) The new plan called a CTHP must be prepared by a RPF. The CTHP requires an analysis and mitigation of potential adverse impacts. The use of the CTHP is not applicable to the Southern Subdistrict of the Coast Forest District.

(2) Timber operations conducted under a CTHP must comply with all planning and operational rules of the Board. Exceptions, in-lieu or alternative practices or prescriptions can not be used. Stocking standards for the selective silvicultural systems must be met immediately at the conclusion of timber operations. A stocking report shall be submitted within six months of completion of timber operations. The clearcutting method, seed tree step of the seed tree regeneration method and shelterwood regeneration methods can not be used.

(3) Fifty percent of the logging area must contain forty percent forest canopy cover of trees averaging eleven inches or greater diameter breast height (DBH).

(4) Logging slash must be lopped and scattered to less than eighteen inches above the ground within two weeks of creation. Slash treated by chipping must be completed within 30 days of creation.

(5) The name, address, phone number and signature of the timberland owner, timber owner, plan submitter RPF and timber operator are required on the CTHP. The CTHP must also state the dates of commencement and completion, legal description of the area, a description of the site conditions including soils, topography, watercourses with protection measures and vegetation before and after harvest. The silvicultural method must be identified and the planned disposition of Pacific Yew, *Taxus brevifolia* must be stated. The type of yarding and road construction must be equipment identified in the CTHP. Any special mitigation measures beyond the standard rules to protect watercourses and unique areas within the area of timber operations must be included in the CTHP.

The RPF must certify the CTHP area has been personally inspected and the potential for significant adverse effects has been evaluated and that the operation, if the rules are followed, will not be expected to have a significant adverse effect on the environment. Compliance with RPF responsibility as specified in the rules must also be certified.

(6) The rules proposed create an environmental checklist. The checklist must be completed and certified to by the RPF preparing the CTHP. The Director representative must also sign the checklist giving reasons for the determination for approval or disapproval. The certification must be made on: the amount of timberland in late successional forest stands; the effect on

threatened or endangered species; resident or migratory fish or wildlife species; water quality; domestic water supply; erosion or siltation of watercourses; aesthetics; noise levels; air quality; archeological, cultural or historical sites; conflicts with recreational, educational, religious or scientific use; traffic; fire hazard; insect and disease threat; and on the exposure to geologic hazards.

A Finding of Significance must also be made by the RPF. When Significant Impacts are found, the RPF must also discuss his findings in writing in the checklist. The result of compliance with the rules, mitigation incorporated in the CTHP and other provisions must show no significant adverse impact to the environment will result from the operation.

(7) Map requirements for submission are specified and are consistent with the basic Forest Practice Act standards.

(8) All agency evaluations, public notifications and participation shall be according to the current THP process. The Director of the Department of Forestry and Fire Protection must approve the CTHP unless evidence is found that the operation can be expected to have a significant impact on the environment. The time periods for review shall be the same as the existing THP process.

(9) When evidence of potential significant impact is found, the RPF shall provide additional information to address the impact. The Director shall not approve the plan until the information has been provided by the RPF. The submitter must extend the review period by thirty working days when additional information is requested.

(10) If any requested additional information is not received within twenty working days or the Director determines there is evidence for potential significant adverse impact, the Director shall return the CTHP and require preparation of a full THP.

(11) The Director shall require a preharvest inspection when plan contents or potential impacts questions are raised by the review team or where winter operations are proposed.

#### COSTS OF THE PROPOSAL:

There are no additional costs to any state agency, nor any state mandated costs to local agencies of government or school districts that require reimbursement under Part 7, Division 4 (commencing with Section 17500) of the Government Code because of any duties, obligations, or responsibilities imposed on state or local agencies or school districts. This order can be accomplished with no additional net costs or where such costs exist they are entered into voluntarily. This order does not create any savings or additional costs of administration for any agency of the United States Government over and above the program appropriations made by Congress.

#### Costs to State Agencies:

No net increases in cost to state agencies have been identified.

Costs to Local Agencies:

The proposed rule would not result in any costs to local government, school districts, or other local agencies.

Costs to Affected Persons:

Section 11346.53 of the Government Code requires state agencies proposing to adopt or amend administrative regulations to assess the potential for adverse economic impacts on affected persons.

The proposed rule does not impose any new mandatory requirements on forest management activities. Rather, the rule offers an alternative approach to current THP preparation.

Costs of preparing a full THP can be significant to all landowners and can sometimes be a financial barrier, especially for smaller landowners. A CDF study (Henly 1992) indicates that basic THP preparation and attendant fees for small landowners cost an average of \$11,465, with a range of \$3,260 to \$24,560. Costs of preparing a CTHP are expected to be significantly lower, given the lesser requirements for environmental analysis and documentation.

While preparation of a CTHP would be less costly than preparation of a regular THP, timber operations under this option could be more costly and harvest levels lower than under a regular THP. In addition to reducing THP preparation costs, the CTHP process may also reduce the time required for THP preparation, thus allowing timber to be brought to market more quickly and persons to take better advantage of changing stumpage prices. This result might occur because even-aged management is strictly limited, minimum canopy and tree size retention standards are mandated, as well as other limitations specified. However, persons who would have proposed operations consistent with these types of management constraints as part of a regular THP may find the CTHP process will facilitate plan approval consistent with their management objectives. The assumption is that private persons and small and other businesses will choose to use this proposed alternative when it is less costly in time or money. If the alternative is more costly, then it is assumed that the regular timber harvest plan or another approach will be used.

The Board of Forestry must determine that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons.

IMPACT ON HOUSING COSTS AND BUSINESSES:

Costs to Businesses and Small Businesses:

For the same reasons cited above, the proposed rules are not expected to result in any increase in costs, and may result in a cost savings, to businesses and

small businesses within the state of California.

Competitiveness Considerations:

Section 11346.53(g) of the Government Code requires the consideration of the impacts of proposed rules on the ability of California businesses to compete with businesses in other states. The proposed rule has the potential to marginally increase, but will not decrease, the competitiveness of California timber producers relative to other states and regions. This is because the proposed rule may provide a means of reducing landowner costs and delays associated with the current THP process.

Creation or Elimination of Jobs or Businesses:

Section 11346.54 of the Government Code requires state agencies proposing to adopt or amend regulations to consider potential impacts on the creation or elimination of jobs or businesses in the state.

The proposed rule is not expected to result in the elimination of jobs or businesses.

Impacts on Housing Costs:

This rule proposal is not expected to have a significant impact on housing costs. This conclusion is reached for several reasons: prices of lumber are set in regional or larger markets; the cost of lumber is also typically less than 20% of a house; and the volumes of timber likely to be harvested under this alternative are also relatively small.

Plain English Statement:

Pursuant to Section 11343.2, Government Code, agencies which amend regulations that affect small businesses must adopt a plain english policy statement overview. These rules do not affect small businesses because utilization of the CTHP is optional. The rules are drafted in plain English to the extent possible given their technical nature. The Board's informative digest within this notice and any future notice for these rules does provide a plain English summary.

AUTHORITY AND REFERENCE CITED:

Authority Cited: Sections 4551, 4551.5, 4593, 21082, 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4593, 21080.5, 21082, 21084, 21086, Public Resources Code, Sections 15300, 15300.3, 15300.4, 15304, California Administrative Code (CAC), Sierra Club et al. v. State Board of Forestry et al. (1994) Supreme Court of the State of California. Ct.App. A047924, Super.Ct.No. 57163.

CONTACT:

Any inquiries concerning this proposed rule adoption may be directed to

Jonathan E. Rea (916) 653-9420, or at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED  
REGULATIONS:

The Board has prepared a Statement or Reasons providing an explanation of the purpose, background and justification for the rules. The statement is available from the Board on request.

A copy of the express terms of the proposed regulation using underline to indicate an addition to the California Code of Regulations and strikeout to indicate a deletion is also available on request.

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available for public reading/perusal at the Board's office listed above.

The Board may adopt these regulations as proposed or with modifications. Any changes made must be sufficiently related to the text made available so that the public was adequately placed on notice that the regulations as modified could result from the proposed action. The other legal requirement for notice is that a reasonable member of the directly affected public could have determined from the notice that the changes to the regulations could have resulted.

The text of any regulations as modified will be made available to the public at least fifteen (15) days prior to the date on which the Board considers the regulations for adoption. Notice of the comment period on changed regulations, together with a full text of the originally proposed regulation with proposed changes clearly indicated will be sent to: (a) persons who testified at the hearings; (b) persons who submitted comments during the public comments period, including written and oral comments received at the public hearings; and (c) persons who requested notification from the Board of Forestry of the availability of such changes.

State Board of Forestry

Dean Cromwell  
Executive Officer

STATEMENT OF REASONS  
ADOPTION OF SECTIONS 1051.5  
14 TITLE CALIFORNIA CODE OF REGULATIONS (CCR),  
CHECKLIST TIMBER HARVESTING PLAN

I. PROBLEM DESCRIPTION:

The Board of Forestry (Board) has received comments, testimony, and correspondence during the past year as part of the hearing process for 14 CCR 1104.1. This information clearly identified a need for a simplified THP process for timber operations with limited potential for significant adverse environmental impacts. Similar comments have been made to the Board for several years, however, the Board had not realized how necessary an alternative THP process was for small forestland owners. Currently, all THPs have the same informational requirements regardless of the potential for impact on public trust resources or the intensity and extent of proposed operations. This has resulted in high costs, an informational burden, and extended preparation time for THPs that generally does not result in a significant negative environmental impact. The current THP process may not be fully justifiable when there is minor risk of environmental damage.

California Environmental Quality Act (CEQA) provides a process for evaluation of a project's potential for significant environmental impact with an initial study of potential impacts measured against environmental guidelines.

The proposed Checklist THP (CTHP) regulations enhance the existing THP review process by providing a similar preliminary evaluation of a timber operation's potential for environmental impacts. This would provide land owners with a simplified and cost-effective alternative to evaluate and identify potential impacts, and subsequent agency review of plans with less potential for significant environmental impact.

II. SPECIFIC PURPOSE AND STATEMENT OF NECESSITY FOR PROPOSED ACTION:

This purpose of this proposed rule is to reduce the informational requirements and preparation time for those operations which are not likely to cause environmental damage. This determination is made after an initial study by the RPF utilizing an environmental checklist and guidelines. The checklist process is similar with CEQA's tiered environmental review. This THP alternative would be limited to operations that do not include:

1. exceptions or alternative practices to the standard Board rules;
2. that meet the minimum forest cover requirements for feeding and dispersal habitat from the United States Forest Service Conservation Strategy for the Northern Spotted Owl; and
3. that require expedited slash treatment to limit the risk of fire and insect infestation. Operations with these limitations are initially presumed to be low impact, and in combination with the RPF's initial study and recommended additional mitigations, would not result in significant adverse impacts.

The necessity for the specific mitigations and conditions identified in Subsection 1051(a) are as follows:

(1) Limitations on the use of alternatives and exceptions from the standard rules would not allow in-lieu practices within the Watercourse and Lake Protection Zone (WLPZ), would require standard road and landing widths and erosion control measures, and would not allow any other alternative practice. This is necessary to ensure that specified WLPZ protection measures are implemented and ground and soil disturbance is kept to insignificant levels.

(2) The restriction on using the clearcutting regeneration method, the seed tree step of the seed tree regeneration method, and the seed step of the shelterwood regeneration method is necessary to prevent the kinds of impacts (soil disturbance, habitat and canopy cover loss) which can be associated with use of these intensive evenaged management techniques. Evenaged techniques do not necessarily cause significant impacts, but the CTHP operates on the presumption impacts will not occur. This presumption would be less appropriate if these evenaged methods were allowed.

(3) Stocking requirements are designed to ensure that regeneration occurs. This is an indispensable part of an overall forest management scheme designed to provide for future habitat structures as well as sustainable timber inventories. Limiting the use of alternative prescriptions, and requiring full stocking of selected standard silvicultural method to be met immediately after harvesting, insures that acceptable levels of stand structure and density of thrifty commercial species exist after harvesting.

(4) The canopy retention requirement that 50% of the area must have 40% canopy cover in trees 11" Diameter Breast Height (DBH) or larger will ensure that canopy closure and stand structure are maintained. The limitation also ensure avoidance of other potentially significant adverse environmental impacts which may result from extensive use of evenaged management silvicultural systems.

(5) The slash disposal requirements that lopping and scattering of slash be done to a level closer to the ground than standard practices and that it occur within two weeks of creation is necessary to provide additional protection against the potential spread of insects, disease, and reduction of fire hazard above the standard rules. The standard rules do not necessarily contribute to a potential negative environmental effect, but the added protections contribute to a presumption of no significant environmental impact as it relates to insects, disease, and fire hazard.

(6) The rules will not apply in the Southern Subdistrict of the Coast Forest District and Monterey County because more restrictive Subdistrict and local rules apply.

(7) Subsection 1051.5(b) is necessary to state that inspite of other rules that define the contents of a standard THP, only this subsection establishes the content of the CTHP. This makes the CTHP more cost effective and less cumbersome for timberland owners who are proposing low impact operations.



(8) Subsection 1051.5(b)(1) is necessary to identify those parties that have a vested interest in the THP, and to have their signatures to ensure that they are aware of the provisions of the plan. An allowance is provided for the License Timber Operator (LTO) and responsible person on site to be identified at a later date but before commencement of operations because many times the operator is not known at the time of submission of the THP.

(9) Subsection 1051.5(b)(2) expected dates of commencement and completion is necessary to comply with PRC 4582(g).

(10) Subsection 1051.5(b)(3) is necessary to provide the legal description of the of the area to identify the exact location of the proposed project. The site description provides the environmental setting of the proposed project, and identifies the before and after harvest forest condition. This is necessary to identify the extent of proposed operations, and the areas where potential for environmental impacts may exist.

(11) Subsection 1051.5(b)(4) requires the identification of the silvicultural treatments being proposed for the various forest conditions identified in 1051.5(b)(3). This is necessary to evaluate the appropriateness of the proposed harvest and the stocking standards that will apply.

(12) Subsection 1051.5(b)(5) requires the identification of the type of equipment to be used. This plays a major role in the layout of the operation and is necessary to evaluate potential impacts on soil compaction, erosion, water quality, and vegetation.

(13) The requirement to include special mitigations beyond the standard rules pursuant to Subsection 1501.5(b)(6) is necessary to identify those additional mitigations related to potential impacts on watercourses and unique areas, and are necessary to reduce the impact's effect to insignificance. Under certain sensitive operating conditions, the standard rules of the Board in themselves may not adequately protect all resources at risk. This subsection is necessary to ensure that all resource impacts on watercourses and unique areas are identified and adequately mitigated.

(14) The environmental checklist requirement of Subsection 1051.5(b)(7) is necessary to disclose all resources that are potentially at risk of impact from the proposed operation. Where specific impacts are identified, additional mitigations must be incorporated into the plan as necessary to reduce the potential significant impact to insignificance. This subsection is also necessary to meet the environmental analysis requirements of CEQA and to ensure the THP review process is functionally equivalent to a CEQA analysis as a certified regulatory program.

(15) Pursuant to subsection 1051.1(b)(8), requires the RPF certify that they have personally inspected the site, and that an analysis of the THP has occurred, and that with all proposed mitigations no identified potential significant effects remain undisclosed and unmitigated.

(16) RPF certification is necessary to ensure that a person knowledgeable

about and responsible for forest practice rule compliance in the field observes the THP area and makes a valid, professional judgment as to the appropriateness of the proposed operation and mitigations for a specific THP. It also insures that an RPF will be reasonably certain of the potential impacts which may result from a proposed operation. Where potential impacts are not disclosed, or a THP results in significant impacts, the RPF certifying the plan may be subject to action against their professional license.

(17) RPF certification that his or her responsibilities identified in Sections 1035.1 and 1035.2 have been completed is necessary to ensure proper plan implementation after approval.

(18) Subsection 1051.5(b)(9), is mapping requirement is necessary to ensure that all information important to the evaluation, review, and implementation of CTHPs is clearly and fully identified. The map scale and legend requirement is necessary to achieve mapping with sufficient detail and clarity of symbols to permit accurate agency assessment of the mapped areas.

(19) It is necessary to map the ownership boundaries to clarify legal responsibility. Harvest area boundaries, specific silvicultural system boundaries, and yarding system boundaries are necessary in order to physically locate the project and to properly identify and evaluate the proposed project's impact on sustaining forest productivity and protecting public trust resources. The location and classification of roads is necessary to clarify legal authority for use, and responsibility to maintain those facilities to specified standards. Road failures must be identified to evaluate and appropriately mitigate impacts from proposed reconstruction. All existing and proposed watercourse crossings must be shown to ensure compliance with watercourse and lake protection measures and zones. For new culvert installations, it is necessary to show lengths and diameters to ensure that these facilities evaluated and found they are capable of carrying runoff from 50-year storm events, and to ensure adequate protection against excessive erosion and siltation of watercourses. For similar reasons, it is necessary to locate all classified lakes and watercourses to ensure that standard protection zones and appropriate protection measures are incorporated into the plan.

(20) It is necessary for proper evaluation, to designate areas of high and extreme erosion hazard to ensure the proper spacing of erosion control structures on these sensitive sites, and to identify those areas of high and extreme rating over 50% in slope on which tractor operations are prohibited. Similarly, slides and unstable areas, and unique areas, must be identified on the map because of limitations on conducting operations in these areas. The identification of known stands of Pacific Yew *Taxus brevifolia* is necessary to protect this species for the potential production of the cancer treatment Taxol.

(21) Subsection 1051.5(c) is necessary to be consistent with the environmental disclosure and protection requirements of CEQA, which include the evaluation and mitigation of potential impacts, and the determination of whether or not the provisions of the THP would result in any significant negative effects.

(22) Subsection 1051.5(d) is necessary to establish the guidelines that will be utilized for the orderly evaluation of the proposed operation's potential for negative environmental impacts, their significance, and the mitigation necessary to reduce potential impacts to insignificance. These guidelines are consistent with the environmental protection purposes of the Forest Practice Act and CEQA and include the following:

(a) It is necessary to consider the impacts on late successional forest stands because these stands tend to be of increasingly limited distribution. When there is potential for significant adverse effects on fish and wildlife species known to be dependent on these stands, a more indepth analysis is necessary than required under the CTHP.

(b) It is necessary to evaluate the potential for significant effects on threatened or endangered species or their habitats to ensure compliance with the legal mandates of the state and federal endangered species acts.

(c) The evaluation of the potential interference with migratory species is necessary to ensure no impact on those species which utilize this habitat for short periods. These habitats may be critical to the species life cycle.

(d) It is necessary to evaluate the potential impacts on the quality and beneficial uses of water to ensure compliance with the applicable Water Quality Control Plans and water codes.

(e) It is necessary to evaluate the potential for impact on domestic water supplies to comply with the Board's public noticing rules and to ensure that these supplies are not degraded.

(f) It is necessary to evaluate the potential for erosion to ensure productivity of forestland. The evaluation of potential for siltation of watercourses is necessary to protect sensitive riparian areas, to ensure compliance with the Board's watercourse protection rules, and to ensure that water quality is not degraded through increased stream turbidity.

(g) Both CEQA and the Forest Practice Act require consideration be given to the maintenance of aesthetic enjoyment values. It is necessary to evaluate potential impacts on the scenic beauty and other aesthetic values of the forest to ensure that feasible measures have been incorporated to reduce the potential impacts to insignificance.

(h) It is necessary to evaluate potential impacts to long-term ambient noise levels to ensure does not create a public nuisance and to ensure compliance with local ordinances.

(i) It is necessary to evaluate the potential for impact on air quality to comply federal and state clean air statues, and to comply with the applicable local air basin standards. Timber operations can contribute to degradation of air quality through increased particulate matter from dust, and through smoke from planed management activities. The potential for significant impact must

be evaluated and mitigated to insignificance.

(j) It is necessary to evaluate the potential for impact on cultural resources to prevent an adverse significant impact which is mandated by the Forest Practice Act (PRC 4551.5). Sites must be located, recorded and evaluated for their significance using standards set out in the Board's rules and reference in this subsection.

(k) It is necessary to evaluate the potential for impact on legally designated reserves, parks, monuments to comply with the Board's rules concerning limitations around special treatment areas.

(l) It is necessary to evaluate the potential for impact on existing traffic and capacity of public roads to ensure the current and long-term public health, safety, and welfare when using these public facilities.

(m) It is necessary to evaluate the potential for impact of the proposed operations on fire hazard, or risk of spread of insects or disease, because of the catastrophic potential for impact that can result from these natural agents. Under normal conditions, these agents are endemic to California's forests. However, it is necessary to evaluate operations which have the potential to create uncontrolled disease and insect epidemics, or support catastrophic wildfire, that can destroy may the ecological resources that the forest practice act and CEQA are mandated to protect. On the other hand, timber operations can mitigate hazards from fire, disease, and insects by reducing fuel concentrations, and modifying habitats and conditions that may be for insects

(n) It is necessary to prevent exposure of persons or structures to geologic hazards. Subsection 1051.5(e) is necessary to clarify that the standard Board rules for processing and review of THPs will still apply to the CTHP. This includes the public and agency review procedures and time frames.

Subsection 1051.5(f) is necessary to identify that where substantial evidence is developed during the analysis or review of a THP by the RPF, the public, the department, or the interdisciplinary review team, the THP review period will automatically be extended up to 30-days to gather additional information concerning the specific environmental point raised. This subsection also states that the director shall not approve a plan until sufficient information is provided to support the director's conclusion of no significant impact. This is necessary because the purpose of the CTHP is to provide a simplified informational document for those operations that are not reasonably expected to result in a significant adverse environmental impact. If substantial information is presented in the record that a significant impact may occur, then sufficient information supporting a conclusion of insignificance must be provided, or the CTHP process is inappropriate.

Subsection 1051.5(g) is necessary to implement the above raised issue that if sufficient additional information is not presented that reduces to insignificance the environmental point raised in subsection 1051.5(f), then the Director shall require a standard THP that more completely addresses the

potential environmental impacts of the proposed operation.

The rules leave the Director the discretion to determine if a CTHP should not be approved and that the presumption of unlikely impacts does not apply. This determination may be necessary in several instances:

1. If the mitigation measures in these rules are not met in the CTHP, then the presumption cannot apply as the presumption is based on compliance with the mitigations and conditions in Section 1051.5 (a). Sections 898.1 and 898.2 of the existing rules require the Director to not approve plans where the requirements for plan approval such as inclusion of feasible mitigations are not met. This discretion is consistent with existent authority and ensures the intent of these rules to avoid impacts is met.

2. There may be examples where an individual CTHP contains conditions that raise substantial evidence of significant individual or cumulative impacts even when the submitter has reasonably attempted to meet the required mitigations in these rules. This can occur, for example, where erosion potential is exceeding high or identified listed species habitat is at risk within the plan. The requirement that the Director make this determination in consultation with reviewing or trustee agencies or upon review of public comments ensures there is reasonable basis for requirement of additional analysis by the RPF. Even where substantial evidence is raised, the RPF is expected only to provide the information necessary to address the specific environmental issue raised. Thus, the THP need not address other informational requirements of the standard THP which do not pertain to the identified potential impact(s). Where the Director determines that information is insufficient to support approval of the CTHP, or where substantial evidence of a potential significant environmental effect continues to exist, the Director may require the Plan Submitter to prepare a standard THP with its more extensive informational requirements. The Director's discretion is necessary to enable the Director to obtain sufficient information to make a determination of environmental impact as required under Section 898.2.

Subsection 1051.5(h) states the Director shall require a preharvest inspection of a CTHP when substantial questions by review team members exist on plan contents or potential environmental impacts, or where winter period timber operations are proposed. This section is necessary to assure CTHPs are not approved that would result in significant environmental impact. Preharvest inspections are on-the-ground inspections of the plan site and enable the Director and other reviewing agencies to determine where impacts may exist and where feasible mitigation measures are needed to avoid those impacts or to lessen them to insignificance (a requirement of the Board's rules and CEQA). Within these rules, the preharvest inspection is part of the assurance that informational levels within the CTHP remain sufficient to meet the informational and resource protection mandates of the Board's own rules, CEQA, and the Forest Practice Act. Also, the preharvest inspection operates as a monitoring mechanism for the RPF accountability within these rules.

### III. RELEVANT DOCUMENTS:

Thomas, J.W., Forsman, E.D., Lint J.B., Meslow, C.E., Noon, B.R., Verner, J. "A Conservation Strategy for the Northern Spotted Owl." Report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl. Portland, Oregon. May 1990. p. 27

Henly, Russ. "Updated Cost Study of Small Landowner Timber Harvesting Plans" California Forest and Range Resources Assessment Program (FRRAP). June 19, 1992.

#### IV. POTENTIAL SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS AND FEASIBLE MITIGATION MEASURES:

This regulatory proposal provides a streamlined procedural alternative to the filing of a regular THP document. The proposed CTHP is designed to identify and provide the initial documentation for the permit for timber operations where there is no reasonable expectation that significant adverse impacts on the environment are likely to occur. This proposal is a process rule designed to evaluate information; the potential for impacts as a result of its implementation would derive from the situation where the process fails to provide the information necessary for the Lead Agency to make a determination.

In general, the rule addresses this potential by incorporating the following: 1) limiting the conditions under which the rule may be used, including compliance with all on-site planning and operational rules of the Board; 2) specifying the contents of the document, including detailed maps; 3) required use of an environmental checklist, including a discussion of impacts and proposed mitigations that will reduce potential significant impacts to insignificance; 4) required determination as specified by the Registered (licensed by the State of California) Professional Forester (RPF) on whether or not the plan has a reasonable likelihood of resulting in a significant adverse impact to the environment; and 5) subjecting the plan to public comment and agency review, and to more intensive analysis if there is any substantial evidence that timber operations as proposed may cause a significant adverse effect to the environment.

The CTHP operates in a manner similar to the negative declaration process under CEQA (PRC Section 21080(c)). A negative declaration under CEQA allows a Lead Agency to determine a proposed project does not have a significant effect on the environment. A negative declaration of impact may be declared under two circumstances: 1) there is no substantial evidence before the agency that the project may have a significant effect on the environment, or 2) potentially significant impacts are identified but the project is revised to include mitigation which avoid the impacts or lessen them to insignificance, and there is no substantial evidence that the revised project may have a significant impact.

Under the CTHP, the RPF makes an initial determination of findings on significance of environmental impact, and the Lead Agency (the Director (CDF)) makes a final determination on plan approval. If no substantial evidence is presented that proposed harvesting (with all proposed mitigation) can reasonably be expected to have a significant impact on the environment, the

Director must approve the plan with the review periods provided under current rules. The Lead Agency retains the responsibility to review the proposal and concur with the determination of no impact; reviewing agencies can legally raise issues of significant impact under CEQA via request for additional plan information and environmental assessment. The time periods for public comment and lead and responsible agency review remain the same or are longer for the CTHP as for the regular (full) THP. Where substantial evidence of impact is presented, the Director will not approve the plan until the plan contains the information and mitigation necessary to address the potential impact.

More specifically, the proposed rules for the CTHP contain several levels of mitigation and other assurance against approval of harvest operations which may potentially have significant adverse environmental impact. As such, in the Board's mind they establish reasonable certainty that the rule will operate in a way that will not cause significant adverse effects to the environment.

First, as discussed above, the CTHP operates within the same public, responsible, and Lead Agency review process as the regular THP (14 CCR Section 1037.3). Second, the rules mandate accountability for the RPF making the initial determination of significance. Proposed Technical Rule Addendum #5 contains an RPF Evaluation and Certification section. The RPF will remain accountable for the determination of impact made in the CTHP. A Department Determination under Section VI of the Addendum not in accordance with the RPF Evaluation under Section V will raise questions of professional accountability for that RPF.

Third, interdisciplinary Review Teams will function within the CTHP process the same as for the regular THP process. Under 14 CCR Section 1037.5, interdisciplinary review teams will be established by the Director to assist in evaluation of proposed operations under a CTHP and the potential for impacts to the environment. The proposal requires that a preharvest inspection of a CTHP occur when substantial questions by review team members exist on plan contents or potential impacts, or where winter operations are proposed. CDF expects to conduct preharvest inspections on CTHPs in frequency and manner similar to that currently conducted for regular THPs. On-the-ground inspections operate to enforce the accountability provisions of the CTHP proposal. Also, the potential for active inspections of operations and the mandatory completion reports on all operations operate as further monitoring mechanisms by the Department which enforce RPF compliance and accountability. A related environmental checkpoint is that CDF review and preharvest inspections will utilize CDF field personnel local knowledge of ground conditions in a manner similar to that under current THP process; moreover, the CTHP potentially facilitates efficient allocation of CDF personnel time and effort for review since an initial screening device for proposals is provided.

Fourth, the proposed CTHP disallows plans which are not in conformance with a specific list of conditions (this is similar in approach to the MTHP process for nonindustrial landowners). In order to submit a CTHP, proposed Section 1051.1 requires compliance with all onsite planning and operational rules of the Board (this includes, and is not limited to, watercourse and lake protection rules, wildlife rules, and stocking standards). Use of evenage

methods is prohibited under the checklist approach; where clearcuts and related management devices are proposed the regular THP approach including the full cumulative effects rule assessment is required. This is designed to place use of the CTHP in conjunction with silviculture prescriptions which generally carry less potential for environmental impact. No in-lieu or alternative practices or prescriptions will be allowed in conjunction with the CTHP. This is designed to assure the RPF determination on significance and the public and agency review is aimed towards the standard methods found and described in the Board's rules; maximizing the benefits of CDF local knowledge and public and agency assessments by narrowing the consideration to standard regulated approaches.

Additional mitigation measures include mandatory leave standards within the logging area (this is consistent with restriction of these rules to plans incorporating unevenage techniques), an optional provision for expedient completion of lopping and spreading of slash, and prohibition of the use of the CTHP within the Southern Subdistrict of the Coast Forest District or within Monterey County (areas which, due to their vegetative characteristics and resource conditions, may raise more issues of potential environmental impact - making a presumption of necessity for the utmost level of state environmental review appropriate).

Finally, as mentioned above, the rules place the ultimate determination of significance with the Lead Agency as required by law. The Director will make a determination of significant impact, utilizing review teams and preharvest inspections as appropriate. In making a determination, the Director may ask for additional plan information where substantial evidence of significant impact is presented. Even where an RPF initially determines no significant potential impact is present, agency and public review may still raise an issue of significant impact. CEQA requires further plan documentation where the Lead Agency raises an issue equating to substantial evidence of potential significant impact. Where the Director makes a determination a plan may have a significant impact, a full THP will be required.

Information sufficient to make a plan-by-plan determination of potential significant impact can be garnered at the following junctures in the CTHP process:

- (1) The RPF must have information sufficient to support the findings of significance required in the rules Addendum. Discussion of the mandatory findings of significance by the RPF is required. For example, a proposed operation in a late successional forest will immediately trigger consideration for the potential of impact in late succession stands. This is part of the checklist with the THP addendum (other mandatory potential impact evaluation includes impacts to wildlife, fish, plants, beneficial uses of water, domestic water supplies, watercourse and erosional impacts, aesthetic impacts, noise and air quality impacts, cultural resource impacts, designated area impacts, traffic impacts, forest health hazards including fire, insect, and disease, and geologic threats and hazards to persons and property);

- (2) Departmental review and inspection during the plan submittal process will



either result in concurrence with the RPF determination or in the raising of issues and the request for further information within the plan.

(3) Interdisciplinary review team involvement does not change and information on potential impacts can be requested during that phase of plan review;

(4) Time frames and the opportunity for public comment remain the same;

(5) Active inspections of ongoing operations may trigger the need for further information if site conditions change; and,

(6) Post approval administrative remedies including head of agency appeals remain in place.

Based on this above discussion, the Board does not expect the CTHP proposal will result in potential significant adverse environmental impacts. For this reason, a discussion of feasible mitigation measures to avoid or lessen such impacts is not needed.

#### V. ALTERNATIVES:

##### A.Filing a Negative Declaration with a THP.

This alternative would consist of attaching an additional document (to a regular THP) which makes a mandatory finding of significance by the RPF similar to that contained in the Addendum #5 of the proposed rules.

The benefit of this alternative is that it would provide the same screening device for the Lead Agency and other reviewing agencies as used for projects reviewed under CEQA. The public is familiar with the form and terms used which might provide more understanding and acceptance of this approach.

However, the disadvantage is that it would not streamline the process for the THP submitter. The proposed CTHP allows for the RPF (plan submitter) to make an initial determination of no impact and then to submit a shortened form of the THP which institutes a checklist approach to determination of potential impact. If the plan submitter is required to go through the full THP process including the full cumulative effects assessment, filing of an additional document such as a Negative Declaration over and above this assessment will not streamline the process.

Another potential disadvantage is that, because of its generality, it may not provide any significant improvement in the assessment of potential significant impacts over the proposed rule.

##### B.Implement a Certified Forest Program.

A Certified Forest Program would set up a system whereby timberland owners could apply to CDF for Forest Certification. A certified forest would have to demonstrate a history of good land stewardship as defined by a process established by the Board. As an example, an ownership might qualify as

certified if meets certain silvicultural standards and does not exhibit cumulative effects resulting from past timber operations. Once an ownership is certified under the program, a landowner may be relieved of the full burden of environmental disclosure (i.e. the full cumulative effects, wildlife, and other risk assessments) on each subsequent timber harvest proposal.

A Certified Forest Program has advantages of implementing forest policies on a landscape basis (not unlike the Board's current rules for sustained yield plans), rewarding good stewardship practices, and potentially streamlining future timber harvest review at the project level.

The disadvantage is that the approach, while it has been discussed in some detail, has not been consolidated in a single draft proposal. Discussion is still taking place about what constitutes either acceptable standards for certification or the process to establish them. Hence it does not provide for either timely streamlining or improved environmental assessment compared to the proposed rule.

#### C. Develop Statewide or Regional Risk Assessment Programs.

A regional risk assessment program describes and estimates risks to environmental resources at the regional scale. Ecological risk assessments begin with three major informational facets: 1) choosing of "endpoints" (characteristics of valued environmental entities believed to be at risk, i.e. sustainability of high quality timber products and conservation of wildlife habitat values); 2) a description of the state of the environment (i.e. regional inventory information and forest stand structure and condition); and 3) a description of the hazard to that environment (i.e. regional occurrences of inventory decline, high erosion hazard areas, etc.). Together this information is used to define the nature of the problem or ecological risk to be assessed.

A formal analysis of the defined ecological risk follows which aims at estimation of the probability and level of undesired effects. A "risk management" process is then used to consider the results of the risk assessments along with economic, technological, and political considerations to arrive at management decisions. Thus, a regional risk assessment program coordinates these three component processes (definition of the ecological risk, estimation of the probability and level of undesired effects, and a risk management process). A statewide risk assessment program would operate in the same manner, but broaden the geographic scope of consideration of the component processes described above.

The advantages of regional or statewide risk assessment programs are the potential to enhance coordination of management between agencies and landowners, development or improvement of databases, and improved implementation of resource policies on a landscape or bioregional level. Such programs might also provide a level of environmental assessment comparable, or even more refined, than the proposed rule.

The disadvantage is that, at this time, nothing of this sort is operational in

California. Hence it does not meet the current need to provide for streamlined alternatives for private landowners while meeting environmental protection mandates.

D. Incorporation of a checklist and certification system similar to the proposal into the current cumulative effects rules.

This alternative would amend the Board's current cumulative effects rules to make the full cumulative effects assessment applicable to only those THPs which may be expected to result in significant adverse environmental impact.

The advantage of this alternative would be to create an amendment to streamline current rules while keeping the same permitting process (regular THPs) in place.

The disadvantage of this alternative is primarily administrative. Placing a separate checklist approach within the cumulative effects rule (which is itself an itemized assessment of resource conditions and impact) is likely to create confusion for the regulated public and for the CDF which must implement both the cumulative effects rules and the permitting process. Placing a tiered system of implementation within the cumulative effects rules itself would not be efficient in streamlining the process because of this inherent potential for confusion.

In contrast, the CTHP proposal is designed to identify those operations upfront which do not require the full THP and cumulative effects assessment. This approach conceptually segregates the procedural options for the timberland owners, facilitating rule implementation and enforcement.

E. Make No Changes; Rely on Current Rules

This alternative would reject the proposal in favor of maintaining current rules.

The advantage of making no change is that it does not raise any issues about how to implement a new rule, including a new form and Technical Rule Addendum. In the short run, this could save time for CDF and other reviewing agencies. It would also avoid cost of litigating any legal issues that might arise from adoption or implementation of the proposal.

The disadvantage of not making the proposed change is that no streamlining would occur and the issues described in the Problem Statement would remain.

#### VI. COSTS OF THE PROPOSAL:

There are no additional costs to any state agency, nor any state mandated costs to local agencies of government or school districts that require reimbursement under Part 7, Division 4 (commencing with Section 17500) of the Government Code because of any duties, obligations, or responsibilities imposed on state or local agencies or school districts. This order can be accomplished with no additional net costs or where such costs exist they are entered into

voluntarily. This order does not create any savings or additional costs of administration for any agency of the United States Government over and above the program appropriations made by Congress.

Costs to State Agencies:

No net increases in cost to state agencies have been identified.

Costs to Local Agencies:

The proposed rule would not result in any costs to local government, school districts, or other local agencies.

Costs to Affected Persons:

Section 11346.53 of the Government Code requires state agencies proposing to adopt or amend administrative regulations to assess the potential for adverse economic impacts on affected persons.

The proposed rule does not impose any new mandatory requirements on forest management activities. Rather, the rule offers an alternative approach to current THP preparation.

Costs of preparing a full THP can be significant to all landowners and can sometimes be a financial barrier, especially for smaller landowners. A CDF study (Henly 1992) indicates that basic THP preparation and attendant fees for small landowners cost an average of \$11,465, with a range of \$3,260 to \$24,560. Costs of preparing a CTHP are expected to be significantly lower, given the lesser requirements for environmental analysis and documentation.

While preparation of a CTHP would be less costly than preparation of a regular THP, timber operations under this option could be more costly and harvest levels lower than under a regular THP. In addition to reducing THP preparation costs, the CTHP process may also reduce the time required for THP preparation, thus allowing timber to be brought to market more quickly and persons to take better advantage of changing stumpage prices. This result might occur because even-aged management is strictly limited, minimum canopy and tree size retention standards are mandated, as well as other limitations specified. However, persons who would have proposed operations consistent with these types of management constraints as part of a regular THP may find the CTHP process will facilitate plan approval consistent with their management objectives. The assumption is that private persons and small and other businesses will choose to use this proposed alternative when it is less costly in time or money. If the alternative is more costly, then it is assumed that the regular timber harvest plan or another approach will be used.

The Board of Forestry must determine that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons.

VII. IMPACT ON HOUSING COSTS AND BUSINESSES:

Costs to Businesses and Small Businesses:

For the same reasons cited above, the proposed rules are not expected to result in any increase in costs, and may result in a cost savings, to businesses and small businesses within the state of California.

Competitiveness Considerations:

Section 11346.53(g) of the Government Code requires the consideration of the impacts of proposed rules on the ability of California businesses to compete with businesses in other states. The proposed rule has the potential to marginally increase, but will not decrease, the competitiveness of California timber producers relative to other states and regions. This is because the proposed rule may provide a means of reducing landowner costs and delays associated with the current THP process.

Creation or Elimination of Jobs or Businesses:

Section 11346.54 of the Government Code requires state agencies proposing to adopt or amend regulations to consider potential impacts on the creation or elimination of jobs or businesses in the state.

The proposed rule is not expected to result in the elimination of jobs or businesses.

Impacts on Housing Costs:

This rule proposal is not expected to have a significant impact on housing costs. This conclusion is reached for several reasons: prices of lumber are set in regional or larger markets; the cost of lumber is also typically less than 20% of a house; and the volumes of timber likely to be harvested under this alternative are also relatively small.

Plain English Statement:

Pursuant to Section 11343.2, Government Code, agencies which amend regulations that affect small businesses must adopt a plain english policy statement overview. These rules do not affect small businesses because utilization of the CTHP is optional. The rules are drafted in plan English to the extent possible given their technical nature. The Board's informative digest within this notice and any future notice for these rules does provide a plain English summary.

VIII. STRIKEOUT AND UNDERSCORE:

(see next page)